IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 14966 of 2007(F)

O.S.(ARB.)709/1996 of PRL.SUB COURT,TRIVANDRUM
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PETITIONER:

THE KERALA CO-OPERATIVE MILK MARKETING FEDERATION LTD., THIRUVANANTHAURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.B.S.KRISHNAN (SR.)
SMT.LATHA KRISHNAN

RESPONDENT:

K.P.CHANDRADASAN, AGED 60 YEARS, CONTRACTOR, RESIDING AT VISWA HINDU BHAVAN, CHELAPPURAM, KOZHIKODE-2.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 14966 OF 2007

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Dated this the 23rd day of May, 2007.

J U D G M E N T

This writ petition is preferred against the common order passed in I.A. Nos. 777/06, 5925/06, 5926/06 and 5948/06 in O.S.(Arb.) 709/96. The writ petitioner is aggrieved by the order on the ground that the person who is said to have been appointed as Arbitrator in the matter had sent two notices as Exts.P6 and P7 wherein, in Ext.P6 he had shown his name as Mohammed Kunju Latheef and in Ext.P7 as Mohammed Abdul Latheef.

2. The learned counsel would submit before me that there is a dispute regarding the identify of the arbitrator itself. Therefore, he cannot be permitted to proceed with the arbitration. I had perused the order Ext.P5 passed by the learned Subordinate Judge, Thiruvananthapuram. The learned counsel appearing for the plaintiff, defendant and the arbitrator appointed by the Court were present in the Court. The trial judge has very clearly noted that, "There is no dispute over the identity of the person who is present today. He retired as superintending Engineer in the irrigation department in 1993 and thereafter he took up

assignment as Arbitrator in various cases." Therefore, the Court was absolutely convinced about the identity of the person who had been appointed by the Court to arbitrate the dispute between the plaintiff and the defendant. On a factual analysis of the materials the Court granted two prayers viz. 1) that the name of the arbitrator shall be corrected in the decree and in the consequential proceedings as M. Abdul Latheef and granted further four months time for pronouncement of the award.

3. I am convinced that the person who arbitrates the matter now is the person who is appointed by the Court to arbitrate and the said matter has not been challenged before any other authority and therefore it has become final. If the said arbitrator passes a wrong award there are appropriate remedies for the parties who are aggrieved by the same by challenging before proper forum. Therefore, the order passed by the learned Subordinate Judge does not suffer from any serious infirmity, illegality or irregularity and therefore this writ petition is dismissed.

M.N. KRISHNAN, JUDGE.

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